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### Key to Icons

-  Memorandum of understanding, memorandum of agreement, or interagency agreement.
-  Reference document, such as a manual, book, or published article.
-  Permit or application for a permit, approval or certification.
-  Web site.\*

## 454.01 Introduction

The loss of productive farmland to highways, urban sprawl, and other types of development is cause for concern. Highways may increase the pressure for conversion from farming to other uses. By making inaccessible areas more accessible, highways increase potential for development. In turn, development increases land values and property taxes, tending to make farming economically infeasible. Adjacent development is seen as incompatible with farming, and farming activities may be considered a “nuisance” by newcomers. Additional traffic moving at high speeds creates a safety hazard for slow moving farm machinery.

\* Web sites and navigation referenced in this section are subject to change. For the most current links, please refer to the online version of the EPM, available through the EAO home page: <http://www.wsdot.wa.gov/eesc/environmental/>

Farmlands may be converted as a result of locating a new road in a farming area, rebuilding and/or enlarging an existing road, or adding an interchange from an interstate highway in a rural area. Conversion may indirectly result when land remaining in a tract partially taken for right of way can no longer be farmed because the project would restrict access, or is converted because of accessibility to a new highway.

### (1) Summary of Requirements

Farmlands defined as “prime,” “unique,” or of state or local significance are protected by federal and state legislation. During the project definition phase, potential impacts to protected farmlands are identified in the Environmental Review Summary (see [Section 320.02](#)). Early consultation with the Natural Resources Conservation Service (NRCS), and state and local agencies is recommended. During project development, a farmland conversion impact rating process is used, in coordination with these agencies, to determine the degree of impact and whether alternatives or mitigation will be necessary. Environmental documents are prepared based on the results of this rating.

### (2) Abbreviations and Acronyms

Abbreviations and acronyms used in this chapter are listed below. Others are found in the general list in the appendix.

DOA	U.S. Department of Agriculture
FPPA	Farmland Protection Policy Act
NRCS	Natural Resource Conservation Service

### (3) Glossary

**Farmland of Statewide or Local Importance** – Farmland, other than prime or unique farmland, that is of statewide or local importance for the production of food, feed, fiber, forage, or oil-

seed crops, as determined by the state or local government agency or agencies, using U.S. Department of Agriculture guidelines.

**Indirect Conversion** – Acres remaining in a tract that is partially taken for right of way which (a) could no longer be farmed because the project would restrict access, or (b) would likely be converted because of accessibility to a new highway.

**Prime Farmland** – Land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion. Prime farmland includes land that possesses the above characteristics and may include land currently used as cropland, pastureland, rangeland, or forestland. It does not include land already in or committed to urban development or water storage.

**Site** – Any alternative alignment on a highway project, including areas converted directly (within the right of way) or indirectly by a proposed action (see “Indirect Conversion”).

**Unique Farmland** – Land other than prime farmland that is used for production of specific high-value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include lentils, nuts, annual cropped white wheat, cranberries, fruits, and vegetables.

## 454.02 Applicable Statutes and Regulations

### (1) National Environmental Policy Act/ State Environmental Policy Act

The National Environmental Policy Act (NEPA), 42 USC Section 4231, requires that all

actions sponsored, funded, permitted, or approved by federal agencies undergo planning to ensure that environmental considerations such as impacts to farmland are given due weight in project decision-making. The State Environmental Policy Act (SEPA) mandates a similar procedure for state and local actions. Federal implementing regulations are at 23 CFR 771 (FHWA) and 40 CFR 1500-1508 (CEQ). State implementing regulations are in WAC 197-11 and WAC 468-12 (WSDOT). For details see [Section 410](#) through [Section 412](#).

### (2) Farmlands Protection Policy Act

The purpose of the Farmlands Protection Policy Act (FPPA) of 1981 (7 USC 4201-4209) is to minimize impacts on farmlands and maximize compatibility with state and local farmland programs. Farmlands are classified as prime, unique, or of statewide or local importance. The following types of land are exempt under the FPPA:

- Soil types not suitable for crops (such as rocky terrain and sand dunes).
- Urban sites where the right of way required for a highway project is wholly within a delineated urban area and the project requires no property from prime or unique farmlands or farmlands of statewide or local importance.
- Farmland that has already been converted to industrial, commercial, residential, or recreational activity.

The complete FPPA is online at FHWA’s web site:

 <http://www.fhwa.dot.gov/>

Click on FHWA Programs, then Environment, then Environmental Guidebook, then Farmland, then Farmlands Protection Policy Act.

Or by direct link:

 <http://www.fhwa.dot.gov/environment/guidebook/vol1/doc5a.pdf>

Implementing Regulations in 7 CFR 658 include a scoring system for determining a project's potential impacts (7 CFR 658.4) that could hasten the conversion of farmland. Available online at:

 <http://www.access.gpo.gov/nara/cfr/>

Click on Code of Federal Regulations, then Title 7, Jan 1, 2001, then 600-699, then 658.

Or by direct link:

 [http://www.access.gpo.gov/nara/cfr/waisidx\\_01/7cfr658\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr658_01.html)

### **(3) State Growth Management Act**

The Growth Management Act (GMA) requires all counties and cities in rapidly growing areas to designate resource lands, including agricultural lands of long term significance. The policies may be included in the Countywide Planning Policies or codified in the County or City's Comprehensive Plan and implementing regulations. These regulations may specify permitted uses and the size and type of infrastructure allowed in the resource areas. For example, the jurisdiction's arterial plan must provide roadway designations that are consistent with the agricultural character and needs of designated resource areas. For details on the GMA, see [Section 451.02](#).

### **(4) Farmlands Preservation Executive Order**

Washington's Farmlands Preservation Executive Order 80-01 of 1980 requires state agencies to consider farmland preservation during program development.

### **(5) Local Right-to-Farm Ordinances**

Some counties and cities have right-to-farm ordinances that are designed to provide some protection to farmers from nuisance complaints by urban dwellers in a farming community.

## **454.03 Policy Guidance**

None.

## **454.04 MOUs, MOAs, IAs**

### **(1) State Conservation Commission**

This memorandum between the State Conservation Commission and WSDOT (see [Exhibit 454-1](#)), aims to enhance cooperation to preserve agricultural and forest lands; to prevent and treat erosion problems adjacent to or associated with farmlands and state highways; to maintain drainage ways; and to reclaim abandoned roadways for agricultural purposes.



Memorandum of Understanding, WSDOT-Washington State Conservation Commission, Agreement GC 7147.

### **(2) Other**

None.

## **454.05 Technical Guidance**

### **(1) WSDOT Discipline Report**

NEPA implementing regulations require evaluation of potential project impacts on farmlands classified as prime, unique, or of statewide or local significance. WSDOT's checklist for preparing a Farmlands Discipline Report is attached as [Exhibit 454-2](#). The checklist focuses on coordination with Natural Resource Conservation Service (NRCS) and completion of the Farmland Conversion Impact Rating (Form AD-1006); see details below. WSDOT and FHWA guidance for preparing the rating and environmental documents is given below. Note that since farmland often contains regulated wet-lands, the potential for wetland impacts should also be considered (see [Section 437.05](#)).

## **(2) Other WSDOT Guidance**

### **(a) Overview**

Following is a summary of the steps required in considering potential impacts on farmland.

- During the development of the Environmental Review Summary, the regional office reviews the impact of the project on preservation of farmland (see [Section 320.03](#)).
- Identify all new projects requiring new right of way that contain farmlands or that may cause indirect conversion of farmlands.
- Contact local governments to identify any farmlands of local importance and any farmland protection programs.
- Determine if the project is federally exempt.
- If not, complete Form AD-1006 or NRCS-CPA-106 (see below) and consider alternatives that could lessen the adverse effects on farmlands.
- Document the determination process.
- Determine if an EIS is required.
- Complete the environmental document.

### **(b) Exempt Projects**

The following projects are generally exempt:

- Construction within existing rights of way purchased before August 6, 1984.
- All resurfacing and normal road repairs.
- Rights of way taken from existing residents and/or businesses.
- Borrow areas and disposal sites not arranged for under the direction of WSDOT.
- Land committed to water storage.

### **(c) Farmland Conversion Rating (Form AD-1006 or NRCS-CPA-106)**

Form AD-1006 is used if the project is site-specific, for example a farmland parcel being acquired for wetland mitigation. Form NRCS-CPA-106 is used for "corridor type" projects

such as highways. If the project is not exempt, the regional office completes Part I and III of the rating form and submits the required number of copies to the appropriate NRCS office. If the project is located within only one District, the form should be sent to the NRCS District (Field) office, the NRCS, State Conservationist and Project Development Office. If the project is located within more than one NRCS district, the correspondence should be sent to the NRCS State Conservationist and the headquarters Project Development Office. (See below for NRCS web site.)

When requesting information from local governments or submitting the rating form to the NRCS, include the following:

- Vicinity map.
- Description of all proposed project alternatives, including possible right of way needs.
- Soil survey area number (available from local NRCS office or web site shown below).

The NRCS area conservationist will determine whether the proposed alternative (site) converts land meeting the definition of farmland. If the FPPA does apply, the NRCS will complete the rating form, Part II, IV and V, within 45 calendar days. If they do not respond within the 45 days, causing delays that interfere with construction, the project may proceed without the NRCS determination.

If the local government and/or NRCS indicates that the proposed project would convert farmlands, the region completes Parts VI and VII of the rating form

Forms AD-1006 and NRCS-CPA-106, with detailed instructions, are on line at the NRCS web site:

 <http://nrcs.us.gov>

Click on Programs, then Farmland Protection Policy Act, then Form AD-1006 or Form NRCS-CPA-106.

Or by direct link:

 <http://www.nrcs.usda.gov/programs/fppa/CPA106.pdf>

Or

 <http://www.nrcs.usda.gov/programs/fppa/AD1006.PDF>

To reach the Washington NRCS web site, go to the NRCS home page at:

 <http://www.nrcs.usda.gov/>

Click on About NRCS, then Organization, then State Offices, then select Washington.

Or by direct link:

 <http://www.wa.nrcs.usda.gov/>

### ***(d) NEPA Determination***

Upon completion of documentation, the region makes the final evaluation for a NEPA Finding of No Significant Impact (FONSI). Using alternative comparisons and subsequent mitigation, the regional office coordinates with FHWA to decide whether or not to proceed with a farmland conversion.

### ***(e) Contents of Environmental Document***

See below for specific FHWA guidance. In general, the project environmental document should discuss or include each of the following items:

- Would an alternative route location or design require losing less farmland important to agriculture?
- What are the secondary effects of the proposed action on farmlands important to agriculture?
- What benefits are foregone if farmlands important to agriculture are taken?
- A copy of completed Form AD-1006 or NRCS-CPA-106.
- A summary of the farmland protection process, including the final decision.
- Any mitigation measures that will reduce farmlands impacts.

### ***(3) FHWA Technical Advisory***

FHWA Technical Advisory T6640.8A (October 1987) gives guidelines for preparing NEPA and Section 4(f) documents, including specifically sections on farmland impacts. See also [Section 455.05](#) for Section 4(f) requirements. If it is determined that an EIS is necessary, the draft should summarize the results of early consultation with the NRCS and state and local agriculture agencies where any of the four specified types of farmland could be directly or indirectly impacted by any alternative under consideration.

Where farmland would be impacted, the draft EIS should contain a map showing the location of all farmlands in the project impact area, discuss the impacts of the various alternatives and identify measures to avoid or reduce the impacts. The Farmland Conversion Impact Rating (Form AD-1006 or NRCS-CPA-106) should be processed, and a copy included in the draft EIS. Where the Land Evaluation and Site Assessment score (from the rating form) is 160 points or greater, the draft EIS should discuss alternatives to avoid farmland impacts.

If avoidance is not possible, measures to minimize or reduce the impacts should be evaluated and, where appropriate, included in the proposed action.

The FHWA Advisory is online at:

 <http://www.fhwa.dot.gov/>

Click on Legislation and Regulations, then FHWA Directives and Policy Memorandums, then FHWA Technical Advisories, then T6640.8A, then Farmland Impacts.

Or by direct link:

 <http://www.fhwa.dot.gov/legregs/directives/techadv/t664008a.htm>

### **454.06 Permits**

No permits are usually required that specifically address impact to or conversion of agricultural land. Local grading permits may be required (see [Section 451.06](#)).

## **454.07 Non-Road Project Requirements**

Ferry, rail, airport, or non-motorized transport systems are generally subject to the same policies, procedures, and permits that apply to road projects.

## **454.08 Exhibits**

*Exhibit 454-1* – Memorandum of Understanding, Washington State Conservation Commission and WSDOT.

*Exhibit 454-2* – Farmland Discipline Report Checklist.

# ***Memorandum of Understanding Farmland and Forest Preservation***

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## **MEMORANDUM OF UNDERSTANDING between the Washington State Conservation Commission and Washington State Department of Transportation**

This Memorandum of Understanding between the Washington State Conservation Commission (WSCC) and the Washington State Department of Transportation (WSDOT) is executed because of a mutual concern to enhance cooperation in preserving agricultural and forest lands; to prevent and treat erosion problems adjacent to or associated with farmlands and state highways; and to maintain drainage ways and to reclaim abandoned roadways for agricultural purposes.

### **Provisions**

The WSCC acting independently or through their Conservation Districts, agrees to:

- (1) Consult with WSDOT District Maintenance Engineers regarding highway rights-of-way which exhibit serious erosion problems.
- (2) Work with WSDOT Headquarters in developing techniques for management of farmlands and roadsides for erosion control in coordination with WSDOT maintenance practices.
- (3) Work with WSDOT District Location Engineers to assure that roadway projects minimize agricultural land conversion.
- (4) Work with WSDOT District Location Engineer to reclaim abandoned roadways for agricultural uses wherever feasible and practical.
- (5) Consult and work with WSDOT District Maintenance Engineers to maintain adequate highway drainage so it does not adversely affect agricultural lands.
- (6) Consult and work with WSDOT District Maintenance Engineers to maintain adequate agricultural land drainage, of precipitated or irrigation water, so that it does not adversely affect highway drainage facilities.
- (7) Work with County Weed Control Boards or other County officials to maintain or develop a noxious weed control program.



- (8) Furnish the WSDOT Project Development Engineer annually seven (7) copies of the WSCC Directory that contains maps showing boundaries of Conservation Districts and current list of each district's board of supervisors with addresses.

The WSDOT agrees to:

- (1) Furnish the WSCC a WSDOT directory and updates as required, containing the names and phone numbers of Headquarters and District Staff and a map showing each district's boundaries.
- (2) Review existing policies and specifications that address agricultural land preservation and reclamation and rights-of-way management, and propose changes as may be necessary. The WSDOT Project Development Office will work with the WSCC to rectify any concerns and develop guidance for the WSDOT Districts. A copy of such guidance will be provided to the WSCC.
- (3) Through the WSDOT Districts, contact local Conservation Districts during the design stage of projects to coordinate concerns and recommendations.
- (4) Work with Conservation Districts through County Weed Control Boards or appropriate county officials to control noxious weeds.
- (5) WSDOT Headquarters will request Department of Ecology to send draft environmental impact statements and assessments to Conservation Districts near the project area for review and comment.
- (6) WSDOT will review Conservation District's comments to environmental documents and make appropriate revisions considering acceptable economic tradeoffs in roadway alignment. Resolution of WSCC comments will normally be determined by the Project Development Engineer. If a satisfactory solution cannot be mutually agreed upon, the Conservation District may appeal to the Assistant Secretary for Highways and, if necessary, to the Secretary of Transportation.

### **Duration**

It is mutually agreed that this Memorandum of Understanding becomes effective at the time of the last signature and will continue in effect until:

- (1) Both parties agree to its termination; or
- (2) 45 days after either party notifies the other in writing of its intent to terminate the M.O.U.



This Memorandum of Understanding may be modified at any time and in any manner that is mutually acceptable to both parties.

(original signed by person named below) \_\_\_\_\_  
Washington State Conservation  
Commission

September 16, 1982 \_\_\_\_\_  
Date

(original signed by person named below) \_\_\_\_\_  
Washington State Department of  
Transportation  
Assistant Secretary for Highways

September 30, 1982 \_\_\_\_\_  
Date

File No. GC7141

## ***Discipline Report Checklist Farmland***

Project Name: \_\_\_\_\_ Job Number: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Date Received: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_ Reviewer: \_\_\_\_\_

(SAT = Satisfactory; INC = Incomplete; MIS = Missing; N/A = Not Applicable)

Answers are required for questions which have no N/A box.

### **I. Studies and Coordination**

(Refer to: Memorandum of Understanding, WSDOT-Washington State Conservation Commission Agreement GC 7141; Farmland Protection Policy Act [FPPA], 7 USC 4202, Rules, 7 CFR Part 658; FHWA *Farmland Protection Policy Act Supplemental Guidelines for Implementing the Final Rule for Highway Projects*, October 1984; Governor's Executive Order 80-01, Farmland Preservation, January 4, 1980; and FHWA Technical Advisory T 6640.8A.)

Include results of coordination with the **Natural Resources** Conservation Service and state and local agencies, as appropriate.

**SAT INC MIS N/A**

- |                          |                          |                          |                          |  |
|--------------------------|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |                          | A. Determined if project will convert farmland?  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | B. Farmland Conversion Impact Rating (Form AD-1006 <b>or</b> <b>NCRS-CPA-106</b> ) Part 1 and Part 3 completed.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | C. Form AD-1006 <b>or NCRS-CPA-106</b> accompanied by:   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Vicinity map.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Project alternatives.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Soil Survey Area number.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | D. Farmland Conversion Impact Rating (Form AD-1006 <b>or</b> <b>NCRS-CPA-106</b> ) submitted to appropriate Natural Resources Conservation Service (NRCS) office return receipt mail. (Part 'D' retained for files.) |

Date Farmland Conversion Impact Rating (Form AD-1006 or NCRS-CPA-106) received at NRCS office. (NRCS has 45 days from receipt to complete evaluation. CFR 658.4(a) states that if 45 days have passed without an evaluation and this may hold up the project, proceed as if no farmland is being converted.)

**SAT    INC    MIS    N/A**

- |                          |                          |                          |                          |   |
|--------------------------|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | E. Completed Form AD-1006 or NCRS-CPA-106 returned by NRCS.             |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | F. Section VI and VII completed per CFR 658.5(b).                       |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | G. Coordinated with FHWA (if federal funds) for review and concurrence. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | H. Incorporated evaluation in environmental document.                   |

February 1999